

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION**

Patricia Myers, as Personal Representative)
of the Estate of Exzabian Myers,)

Plaintiff,)

v.)

Aiken County; Aiken County Sheriff's)
Office; Deputy William T. Sutton, in his)
individual and official capacity;)
Sgt. Andrew M. Dailey, in his individual)
and official capacity; Deputy Justin L.)
Rutland, in his individual and official)
capacity; SSgt. Tyler W. Roberts, in his)
individual and official capacity;)
Deputy Gonzalo Campos, in his individual)
and official capacity; Does 1-3,)
(ACSO 911 call operators), in their)
individual and official capacity;)
City of New Ellenton; New Ellenton Police)
Department; Deputy Jeremy A. Frank,)
in his individual and official capacity,)

Defendants.)
_____)

Civil Action No. 1:23-cv-1495-SAL-PJG

(Civil Action No. 2023-CP-02-0561)
(Court of Common Pleas)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446, the Defendants Aiken County, Aiken County Sheriff's Office, William T. Sutton, Andrew M. Dailey, Justin L. Rutland, Tyler W. Roberts, and Gonzalo Campos (hereinafter collectively referred to as "ACSO Defendants") hereby invoke the jurisdiction of the United States District Court for the District of South Carolina and state the following grounds for removal:

1. The Plaintiff filed this action in the Court of Common Pleas for Aiken County against the Defendants. The Plaintiff brought this action in part pursuant to 42 U.S.C. § 1983 alleging a claim for excessive force under the Fourth, Eighth, and Fourteenth Amendments to the United States Constitution. The Plaintiff has also alleged supplemental state law claims.

2. This action presents claims and issues of federal law. As stated above, the Plaintiff has specifically alleged that the Defendants William T. Sutton, Andrew M. Dailey, Justin L. Rutland, Tyler W. Roberts, and Gonzalo Campos violated the decedent's Fourth, Eighth, and Fourteenth Amendment rights.

3. Service of process upon the ACSO Defendants was effectuated on March 13, 2023. The Defendants City of New Ellenton and New Ellenton Police Department were served on March 13, 2023. Upon information and belief, Defendant Jeremy A. Frank has not been served to date.

4. This Notice is filed within thirty days of receipt of the Summons and Complaint by the ACSO Defendants. Therefore, the filing of this Notice of Removal is timely.

5. This Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1331. As discussed above, the Plaintiff's Complaint raises issues of federal constitutional law. Consequently, this action may be removed pursuant to 28 U.S.C. § 1441.

6. The ACSO Defendants submit this Notice of Removal without waiving any defenses to the claims asserted by the Plaintiff, including jurisdictional and service defenses, and without conceding that the Plaintiff has pled claims upon which relief can be granted.

7. The Defendants City of New Ellenton and New Ellenton Police Department have consented to the removal of this action to the United States District Court.

8. The undersigned attorney of record signs this Notice of Removal pursuant to Rule 11, FRCP.

WHEREFORE, the Defendants Aiken County, Aiken County Sheriff's Office, William T. Sutton, Andrew M. Dailey, Justin L. Rutland, Tyler W. Roberts, and Gonzalo Campos pray that this Court accept this Notice of Removal which is being filed and that this Court take jurisdiction of the above-captioned action and all further proceedings in said action in the Court of Common Pleas for Aiken County, State of South Carolina, bearing Civil Action Number 2023-CP-02-0561, be stayed.

LINDEMANN LAW FIRM, P.A.

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Gonzalo Campos*

April 12, 2023